

Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY PARIS IMMEDIATE
INFO AMEMBASSY LONDON
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E.O. 11652: N/A

TAGS: EAIR, FR

SUBJECT: CIVAIR - PAN AM CHANGE OF GAUGE

1. ON MAY 18, THE DEPARTMENT RESPONDED TO MOST RECENT
FRENCH NOTE. DEPARTMENT PROPOSED MEETING OF LEGAL EXPERTS
IN WASHINGTON BEGINNING MAY 24. TEXT OF NOTE IS AS
FOLLOWS:

QUOTE. THE DEPARTMENT OF STATE REFERS TO THE NOTE OF THE
EMBASSY OF FRANCE DATED MAY 13, 1978 CONCERNING THE QUES-
TION OF CHANGE OF GAUGE BY PAN AMERICAN ON CERTAIN FLIGHT
OPERATIONS BETWEEN THE UNITED STATES AND FRANCE.

THE GOVERNMENT OF THE UNITED STATES HAS CAREFULLY REVIEWED
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THE FRENCH EMBASSY'S NOTE. WE OBSERVE THAT IT IS THE POSI-
TION OF THE FRENCH AUTHORITIES THAT THE CURRENT DISPUTE
RESPECTING PAN AMERICAN WORLD AIRWAYS' FLIGHTS 124/125 HAS
NOT YET BEEN SUFFICIENTLY DISCUSSED BETWEEN THE PARTIES TO
DETERMINE WHETHER IT CAN BE RESOLVED WITHOUT RESORT TO
ARBITRATION. WE NOTE IN RESPONSE THAT THE UNITED STATES
HAS INITIATED SEVERAL DISCUSSIONS OF THIS SUBJECT OVER THE

LAST THREE MONTHS, AND ALSO INITIATED AN EXCHANGE OF LEGAL MEMORANDA ON THE SUBJECT. THESE EFFORTS ON THE PART OF THE UNITED STATES FAILED TO ACHIEVE AGREEMENT.

DESPITE THIS HISTORY, THE UNITED STATES WELCOMES THE SUGGESTION THAT LEGAL EXPERTS FROM BOTH COUNTRIES MEET FOR A THOROUGH EXAMINATION OF THE DISPUTE, AND, IF THAT EXAMINATION FAILS TO RESOLVE THE DISPUTE, A DISCUSSION OF THE TERMS ON WHICH THE DISPUTE SHOULD BE SUBMITTED TO ARBITRATION. WE ARE PREPARED TO RECEIVE IN WASHINGTON A DELEGATION OF LEGAL EXPERTS FROM THE FRENCH GOVERNMENT AT THE EARLIEST POSSIBLE DATE. WE SHARE THE HOPE OF THE FRENCH AUTHORITIES THAT THE MATTER CAN BE PROMPTLY RESOLVED AS THE RESULT OF SUCH DISCUSSIONS.

THE GOVERNMENT OF THE UNITED STATES IS COMPELLED TO TAKE THIS OPPORTUNITY TO REITERATE ITS VIEW THAT THE ACTIONS OF THE FRENCH AUTHORITIES IN PREVENTING THE OPERATION OF THE PAN AMERICAN FLIGHTS WITH A CHANGE OF GAUGE IN LONDON ARE IN VIOLATION OF THE FRANCO-AMERICAN AIR TRANSPORT AGREEMENT OF MAY 27, 1946, AS AMENDED. WE MUST PROTEST THESE ACTIONS, AND STATE OUR DISAPPOINTMENT THAT, PENDING RESOLUTION OF THE DISPUTE, THE FRENCH AUTHORITIES ARE CONTINUING TO INTERFERE WITH OPERATIONS OF THE UNITED STATES AIRLINE. THE UNITED STATES CONTINUES TO BELIEVE THAT THE FRENCH AUTHORITIES SHOULD ALLOW THE OPERATIONS, WITHOUT LIMITED OFFICIAL USE

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PREJUDICE TO THE FRENCH POSITION, PENDING THE MEETING OF LEGAL EXPERTS, AND, IF NECESSARY, AN EXPEDITED ARBITRAL DECISION. HOWEVER, IN THE FACE OF THE ACTION TAKEN BY THE FRENCH AUTHORITIES, THE CIVIL AERONAUTICS BOARD HAD NO CHOICE BUT TO INITIATE APPROPRIATE COUNTERMEASURES. MOREOVER, SHOULD THE FRENCH AUTHORITIES CONTINUE TO TAKE UNILATERAL ACTION IN VIOLATION OF THE BILATERAL AGREEMENT WHILE THE DISPUTE IS BEING ADDRESSED IN LEGAL DISCUSSIONS OR PROCEEDINGS, THE UNITED STATES MUST PROCEED WITH APPROPRIATE COUNTERMEASURES. WE REMAIN HOPEFUL THAT THE DISPUTE CAN BE RESOLVED AT THE FORTHCOMING MEETING OF LEGAL EXPERTS. UNQUOTE.

2. FYI. PAN AM HAS ADVISED US THAT IT HAS UNCOVERED CASE WHERE FRENCH AUTHORITIES APPROVED PAN AM OPERATION FROM US, BARCELONA, NICE, WITH CHANGE OF GAUGE IN BARCELONA. FURTHER FACTUAL AND LEGAL RESEARCH IS IN PROGRESS. END FYI. VANCE

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